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§ 22.5 Futures commission merchants and derivatives clearing organizations: Written acknowledgement.

(a) Before depositing Cleared Swaps Customer Collateral, the futures commission merchant or derivatives clearing organization shall obtain and retain in its files a separate written acknowledgement letter from each depository in accordance with §§ 1.20 and 1.26 of this chapter, with all references to “Futures Customer Funds” modified to apply to Cleared Swaps Customer Collateral, and with all references to section 4d(a) or 4d(b) of the Act and the regulations thereunder modified to apply to section 4d(f) of the Act and the regulations thereunder.

(b) The futures commission merchant or derivatives clearing organization shall adhere to all requirements specified in §§ 1.20 and 1.26 of this chapter regarding retaining, permitting access to, filing, or amending the written acknowledgement letter, in all cases as if the Cleared Swaps Customer Collateral comprised Futures Customer Funds subject to segregation pursuant to section 4d(a) or 4d(b) of the Act and the regulations thereunder.

(c) Notwithstanding paragraph (a) of this section, an acknowledgement letter need not be obtained from a derivatives clearing organization that has made effective, pursuant to section 5c(c) of the Act and the regulations thereunder, rules that provide for the segregation of Cleared Swaps Customer Collateral, in accordance with all relevant provisions of the Act and the regulations thereunder.

[77 FR 6371, Feb. 7, 2012, as amended at 77 FR 66334, Nov. 2, 2012]

§ 22.6 Futures commission merchants and derivatives clearing organizations: Naming of Cleared Swaps Customer Accounts.

The name of each Cleared Swaps Customer Account that a futures commission merchant or a derivatives clearing organization maintains with a Permitted Depository shall:

(a) Clearly identify the account as a “Cleared Swaps Customer Account” and

(b) Clearly indicate that the collateral therein is “Cleared Swaps Customer Collateral” subject to segrega-

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tion in accordance with the Act and this part.

§ 22.7 Permitted depositories: Treatment of Cleared Swaps Customer Collateral.

A Permitted Depository shall treat all funds in a Cleared Swaps Customer Account as Cleared Swaps Customer Collateral. A Permitted Depository shall not hold, dispose of, or use any such Cleared Swaps Customer Collateral as belonging to any person other than:

(a) The Cleared Swaps Customers of the futures commission merchant maintaining such Cleared Swaps Customer Account or;

(b) The Cleared Swaps Customers of the futures commission merchants for which the derivatives clearing organization maintains such Cleared Swaps Customer Account.

§ 22.8 Situs of Cleared Swaps Customer Accounts.

The situs of each of the following shall be located in the United States:

(a) Each FCM Physical Location or DCO Physical Location;

(b) Each “account,” within the meaning of § 22.2(f)(1), that a futures commission merchant maintains for each Cleared Swaps Customer; and

(c) Each Cleared Swaps Customer Account on the books and records of a derivatives clearing organization with respect to the Cleared Swaps Customers of a futures commission merchant.

§ 22.9 Denomination of Cleared Swaps Customer Collateral and location of depositories.

(a) Subject to paragraph (b) of this section, futures commission merchants and derivatives clearing organizations may hold Cleared Swaps Customer Collateral in the denominations, at the locations and depositories, and subject to the segregation requirements specified in § 1.49 of this chapter.

(b) Notwithstanding the requirements in § 1.49 of this chapter, a futures commission merchant’s obligations to a Cleared Swaps Customer may be denominated in a currency in which funds have accrued to the Cleared Swaps Customer as a result of a

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Cleared Swap carried through such futures commission merchant, to the extent of such accruals.

(c) Each depository referenced in paragraph (a) of this section shall be considered a Permitted Depository for purposes of this part. *Provided, however*, that a futures commission merchant shall only be considered a Permitted Depository to the extent that it is acting as a Collecting Futures Commission Merchant (as § 22.1 of this part defines such term).

[77 FR 6371, Feb. 7, 2012, as amended at 77 FR 66334, Nov. 2, 2012]

§ 22.10 Application of other regulatory provisions.

Sections 1.27, 1.28, 1.29, and 1.30 of this chapter shall apply to the Cleared Swaps Customer Collateral in accordance with the terms therein.

[77 FR 66335, Nov. 2, 2012]

§ 22.11 Information to be provided regarding Cleared Swaps Customers and their Cleared Swaps.

(a) Each Depositing Futures Commission Merchant shall:

(1) The first time that the Depositing Futures Commission Merchant intermediates a Cleared Swap for a Cleared Swaps Customer with a Collecting Futures Commission Merchant, provide information sufficient to identify such Cleared Swaps Customer to the relevant Collection Futures Commission Merchant; and

(2) At least once each business day thereafter, provide information to the relevant Collecting Futures Commission Merchant sufficient to identify, for each Cleared Swaps Customer, the portfolio of rights and obligations arising from the Cleared Swaps that the Depositing Futures Commission Merchant intermediates for such Cleared Swaps Customer.

(b) If an entity serves as both a Depositing Futures Commission Merchant and a Collecting Futures Commission Merchant, then:

(1) The information that such entity must provide to its Collecting Futures Commission Merchant pursuant to paragraph (a)(1) of this section shall also include information sufficient to identify each Cleared Swaps Customer of the Depositing Futures Commission

Merchant for which such entity serves as a Collecting Futures Commission Merchant; and

(2) The information that such entity must provide to its Collecting Futures Commission Merchant pursuant to paragraph (a)(2) of this section shall also include information sufficient to identify, for each Cleared Swaps Customer referenced in paragraph (b)(1) of this section, the portfolio of rights and obligations arising from the Cleared Swaps that such entity intermediates as a Collecting Futures Commission Merchant, on behalf of its Depositing Futures Commission Merchant, for such Cleared Swaps Customer.

(c) Each futures commission merchant that intermediates a Cleared Swap for a Cleared Swaps Customer, on or subject to the rules of a derivatives clearing organization, directly as a Clearing Member shall:

(1) The first time that such futures commission merchant intermediates a Cleared Swap for a Cleared Swaps Customer, provide information to the relevant derivatives clearing organization sufficient to identify such Cleared Swaps Customer; and

(2) At least once each business day thereafter, provide information to the relevant derivatives clearing organization sufficient to identify, for each Cleared Swaps Customer, the portfolio of rights and obligations arising from the Cleared Swaps that such futures commission merchant intermediates for such Cleared Swaps Customer.

(d) If the futures commission merchant referenced in paragraph (c) of this section is a Collecting Futures Commission Merchant, then:

(1) The information that it must provide to the derivatives clearing organization pursuant to paragraph (c)(1) of this section shall also include information sufficient to identify each Cleared Swaps Customer of any entity that acts as a Depositing Futures Commission Merchant in relation to the Collecting Futures Commission Merchant (including, without limitation, each Cleared Swaps Customer of any Depositing Futures Commission Merchant for which such entity also serves as a Collecting Futures Commission Merchant); and